

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, EASTERN DIVISION**

Clifford Alston,

Plaintiff(s),

v.

**Christopher Askew and Ruby White d/b/a
Air Ride Trucking,**

Defendant(s).

3:06-cv-722-WKW

**RESPONSE IN OPPOSITION TO MOTION TO COMPEL AND
MOTION FOR LEAVE FOR ADDITIONAL TIME TO ANSWER DISCOVERY**

COMES NOW, the defendant, Christopher Askew, by and through counsel of record, and responds to this Court's Order of May 28, 2007 to show cause why the plaintiff's motion to compel should not be granted, and further moves this Court for additional time to answer discovery.

1. Counsel for Defendant Askew has been working for several months to locate Mr. Askew and obtain his signed responses to plaintiff's discovery.
2. Following the filing of this lawsuit, counsel for defendants met with Mr. Askew to discuss the claims against him. Mr. Askew was very cooperative and provided the undersigned counsel with several phone numbers where he could be reached and his mailing address, a P.O. Box in Lumpkin, Ga.
3. On or about February 8, 2007, the plaintiff served discovery responses to Mr. Askew.
4. Counsel for Askew prepared responses to this discovery based on his initial meeting with Mr. Askew.

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5. On numerous occasions, including February 12, 2007, March 22, 2007, and May 20, 2007, Counsel for Askew mailed these answers to the P.O. Box address in Lumpkin, Georgia requesting that Mr. Askew review and sign.
6. Mr. Askew did not respond to the above noted correspondence; nor has he responded to other correspondence sent to him.
7. Counsel has attempted to reach Mr. Askew by Phone at the numbers Mr. Askew provided, but those numbers are no longer in service.
8. To date, Counsel for Askew has been unable to get in contact with Mr. Askew regarding his outstanding discovery.
9. Counsel for Askew has been in contact with Ruby White, Askew's former employer, and she is attempting to obtain a current phone number for Mr. Askew, but has been unsuccessful to date.
10. Counsel for Askew has retained the services of a representative in Georgia to attempt to locate Mr. Askew and have him execute the discovery responses. This person is currently attempting to find Mr. Askew.
11. Counsel for Askew does not believe that Mr. Askew is intentionally avoiding his discovery obligations, but believes that he has merely moved and failed to provide his counsel with an appropriate forwarding address or new phone number. Furthermore, it is the undersigned's understanding that Mr. Askew is an over-the-road truck driver who is not home very often.
12. Counsel for Askew requests leave for an additional 15 to 30 days to answer discovery, and, if necessary, will continue to retain a representative of counsel or engage a private investigator to locate Mr. Askew.

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WHEREFORE PREMISES CONSIDERED, counsel for Askew respectfully requests an additional 30 days to attempt to locate Mr. Askew and obtain his signed discovery responses and dates for his deposition.

/S K. Donald Simms

K. Donald Simms

Attorney for Defendant

OF COUNSEL:

MILLER, HAMILTON, SNIDER & ODOM, L.L.C

505 20th Street N., suite 500

Birmingham, AL 35203

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail, postage prepaid and properly addressed, on this 25th day of May, 2007 to:

Chris Glover
2017 Morris Ave.
Suite 300
Birmingham, AL 35203

/S

OF COUNSEL